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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,462	04/12/2004	William S. Lovell	PAP01USA	4595
27626	7590	06/27/2005	EXAMINER	
WILLIAM S. LOVELL 6435 N. E. NEPTUNE DR. LINCOLN CITY, OR 97367			PHAM, MINH CHAU THI	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,462

Applicant(s)

LOVELL, WILLIAM S.

Examiner

Minh-Chau T. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/12/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Objections

Claims 1-3 and 5-23 are objected to because of the following informalities:

Although the phrase "characterized in" is acceptable to use, the phrase – comprising – or – including – is preferable to use in order to comply with U.S. practice. Appropriate correction is required.

Claims 1-3 and 5-23 are objected to because of the following informalities:

Although numerical designations in the claims are permissible, the claims should be defined with proper structural limitations of the elements and their interrelationship with proper nexus. Appropriate correction is required.

There is no claim 4. The only claims are in the instant patent applications are 1-3 and 5-23. Claim 4 is missing. Appropriate correction is requested.

Claim Rejections - 35 USC § 112

Claims 2, 3, 5, 6, 8-10, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2, 3, 5, 6, 13 and 14 are indefinite. A claim is indefinite when it specifies "pre-selected" sequence etc. when "pre-selected" according to applicant's definition merely means selected before hand. See Seagram & Sons vs. Marzall, 84 USPQ 180.

Claims 3, 5 and 6 include the word "type", when appended to an otherwise definite term, e.g. silica gel, coconut based activation carbon, is unclear because "type" has been held to render such term indefinite. See Ex parte Copenhaver 109 USPQ 118.

Also, in claims 3, 5 and 6, "and/or" is improper alternative.

In claims 8 and 11, the phrase "plate-like" and "box-like" render the claims indefinite because the claims include elements not actually disclosed (those encompassed by "plate-like" or "box-like"), thereby rendering the scope of the claims unascertainable. See MPEP 2173.05(d).

In claim 10, it has been held that the recitation that an element is "capable of" or "can be" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. See In re Hutchison, 69 USPQ 138.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricci (5,165,295), in view of either Smissen et al (4,277,443) or Jones (4,530,706).

Ricci discloses a self powered wearable personal air purifier (1) having a main frame, an air conduit disposed in a longitudinal direction along the main frame having an inlet and an outlet (see Figs. 1 & 4), a power source (6) and body attaching means (4) wherein the air purifier is removably attachable to a user (see col. 2, lines 25-29, col. 2, line 42 through col. 3, line 29, col. 4, lines 4-21). Ricci further discloses air baffle disposed transversely in the main frame of the purifier (see Fig. 3). Claims 1-3 and 5-23

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differ from the disclosure of Ricci in that the personal air purifier has a filter disposed in the air conduit. Smissen et al disclose layers of filtration media in a purifying apparatus including a dust filter (19), a filtering material for cleaning the air stream such as potassium peroxide, etc. (see col. 3, line 45 through col. 4, line 50). Jones discloses a filter cartridge for a purifying apparatus filled with an adsorbent (16) such as activated carbon (col. 2, lines 25-26) or molecular sieves (col. 3, lines 31-35). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide various filtering layers as taught by either Smissen et al or Jones in the purifier of Ricci since different filtration layers would help to clean out certain specific contaminant in the air stream passing therethrough.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Minh-Chau Pham
Patent Examiner
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June 23, 2005